IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

Crl.MC.No. 4090 of 2002()

C.C.NO.574/1999 OF JFCM, ADIMALY

PETITIONER: ACCUSED NO.4

M/S.HINDUSTAN LEVER LIMITED,165/166,BACK BASY RECLAMATION,MUMBAI 400 020 (REPRESENTED BY ITS REGIONAL SALES MANAGER,MR.VINOD NAMBIAR)

BY ADV. SRI.N.A.MURALEEDHARAN

RESPONDENTS: COMPLAINANT AND STATE
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1. THE FOOD INSPECTOR,DEVIKULAM CIRCLE, (FOOD INSPECTOR,RAJAKKAD GRAMA PANCHAYAT)

2. THE STATE OF KERALA,REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.2677/2002 IN CRL.M.C.NO.4090/2002

CLOSED.

SD/- K.R.UDAYABHANU, JUDGE

04/10/2007

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K.R.UDAYABHANU, J.

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Crl.M.C.No.4090 of 2002

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Dated this the 4th day of October, 2007

O R D E R

The petitioner company, which is the fourth accused in C.C.No.574/1999 pending in the court of the Judicial Magistrate of the First Class, Adimaly, has sought for getting quashed the proceedings initiated alleging that the company has been implicated only on the basis of the label declaration and that no invoice, cash bill or cash memorandum as contemplated under proviso to Section 14 of the Prevention of Food Adulteration Act, has been produced.

2. It is settled law, as held by the Supreme Court in **Murlidhar Shyamlal and another v. State of Assam [1996 SCC (Cri) 485]** that label declaration is hardly sufficient to establish the fact that the food articles seized were manufactured by the particular entity. The petitioner has also produced the copy of the complaint which contains the list of the documents produced. It is seen that no documents as to the purchase of the articles by the vendor have been produced. In

the circumstances, the materials produced along with the complaint is not sufficient to implicate the petitioner herein. At a later stage, if accused Nos.1 and 2, the vendor or the licencee or the prosecuting agency produce the relevant records in the matter to establish that it is the petitioner company, that has produced the food article, that is, skimmed milk powder, the petitioner can be impleaded. Hence, the proceedings initiated against the fourth accused in C.C.No.574/1999 in the court of Judicial Magistrate of the First Class, Adimaly, is herewith quashed.

The counsel for the petitioner has sought for the benefit of this order to be extended to the third accused, who is the nominee to the fourth accused company. In the circumstances, the third accused will also be entitled for the same relief as provided herein.

The criminal miscellaneous case is allowed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.M.C.No.4090 of 2002

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O R D E R

4th October, 2007